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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

16 ROBERT ARMIJO,

17 Plaintiff,

18 v.

19 OZONE NETWORKS, INC. d/b/a OPENSEA,  
 a New York Corporation, YUGA LABS LLC  
 20 d/b/a BORED APE YACHT CLUB, a Delaware  
 limited liability company; LOOKSRARE; and  
 21 DOES 1 to 50,

22 Defendants.  
 23  
 24  
 25  
 26  
 27  
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Case No.: 3:22-cv-00112-MMD-CLB

**DECLARATION OF NICOLE MUNIZ IN  
 SUPPORT OF DEFENDANT YUGA  
 LABS' MOTION TO DISMISS  
 PLAINTIFF'S COMPLAINT**

1 I, Nicole Muniz, hereby declare as follows:

2 1. I am the Chief Executive Officer of Yuga Labs, Inc., a Delaware corporation (the  
3 successor entity to Yuga Labs, LLC) (together, “Yuga Labs”). I base this declaration on  
4 personal knowledge or on business records which I have reviewed. If called to testify as a  
5 witness in this matter, I could and would testify competently to the facts set forth herein.

6 2. At the time of the events described in the complaint, Yuga Labs was a Delaware  
7 limited liability company with its principal place of business in Alexandria, Virginia. On  
8 February 22, 2022, Yuga Labs converted to a Delaware corporation.

9 3. Yuga Labs does not have offices in Nevada and none of Yuga Labs’ employees or  
10 contractors reside in Nevada. Yuga Labs has never purchased or used any physical advertising  
11 space in the state of Nevada and has never held a sales or marketing event – or an event of any  
12 kind – within the state of Nevada.

13 4. Yuga Labs is the developer of smart contracts (programmed lines of code) that,  
14 when executed on the Ethereum blockchain, allow individuals a license to mint pieces of digital  
15 art (each a “non-fungible token” or “NFT”).

16 5. In early 2021, Yuga Labs created a smart contract for a series of “Bored Ape”  
17 NFTs as part of a large-scale, community-driven art project. After Yuga Labs launched the  
18 smart contract in April 2021, collectors used the smart contract to mint a digital Bored Ape NFT  
19 (from a collection 10,000 Bored Apes that were made available to be minted) by paying 0.08  
20 Ethereum to Yuga Labs as the developer. The complete collection sold out by May 1, 2021.  
21 Based on the price of Ethereum in the period the Bored Ape NFTs were available to be minted,  
22 the approximate cost of 0.08 Ethereum ranged from \$169 to \$236.

23 6. Later in 2021, Yuga Labs created another smart contract (a “serum”) that, when  
24 executed, would allow individual owners of Bored Ape NFTs to receive a “mutant” version of  
25 their Bored Ape NFT, resulting in another series of digital art collectibles, each called a “Mutant  
26 Ape.” An additional 10,000 Mutant Ape NFTs were made available to mint, whether or not an  
27 individual held a Bored Ape NFT.  
28

1           7.     Once minted, a Bored Ape or Mutant Ape confers on its holder certain commercial  
2 rights with respect to content featured on the NFT, which rights are tied to and transfer with the  
3 NFT itself. Yuga Labs does not control secondary purchases, sales, or trading of Bored Ape or  
4 Mutant Ape NFTs.

5           8.     Along with certain commercial rights in the NFTs, holders of Bored Ape and  
6 Mutant Ape NFTs may be eligible for certain exclusive benefits and opportunities, the vast  
7 majority of which are offered by third parties with no connection to Yuga Labs. Yuga Labs does  
8 maintain a publicly available website, called the “Bored Ape Yacht Club” or “BAYC” (available  
9 at [boredapeyachtclub.com](https://boredapeyachtclub.com)), which is the virtual clubhouse home of the Bored Apes and Mutant  
10 Apes. Other than an ongoing token-gated feature on the site, where NFT holders can choose to  
11 make time-limited pixel-by-pixel contributions to a communal artwork, the site is largely passive  
12 and informational and does not provide specific benefits to holders of Bored Ape and Mutant  
13 Ape NFT holders. The terms and conditions applicable to the website, and by extension, to  
14 holders of the Bored Ape and Mutant Ape NFTs, expressly disclaim responsibility for the safety  
15 and management of Bored Ape and Mutant Ape NFTs and note that users are responsible for the  
16 safety of their private Ethereum wallets and all transactions involving digital collectibles.  
17 Indeed, as the terms advise, because the Bored Ape and Mutant Ape NFT smart contracts run on  
18 the Ethereum network, Yuga Labs has no ability to undo, reverse, or restore any transactions.

19           9.     The Bored Ape and Mutant Ape project took hold in the collective community  
20 imagination and spawned countless third-party websites, online and offline events, and other  
21 community-driven initiatives which Yuga Labs does not control.

22           10.    In addition to the BAYC website, Yuga Labs also hosts a BAYC Discord channel.  
23 The BAYC Discord is also an informational space where individuals can learn about new  
24 announcements, review frequently asked questions, discuss Yuga Labs’ various projects with  
25 other NFT holders and enthusiasts, or visit Yuga Labs’ official channels across the web through  
26 verified links. Yuga Labs does not sell anything to anyone through the Yuga Labs Discord  
27 channel.  
28

Nicole Muniz

**CERTIFICATE OF SERVICE**

Pursuant to F.R.C.P. 5(b) and Electronic Filing Procedure IV(B), I certify that on June 3, 2022, a true and correct copy of the **DECLARATION OF NICOLE MUNIZ IN SUPPORT OF DEFENDANT YUGA LABS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT** was transmitted electronically through the Court's CM/ECF e-filing electronic notice system to all attorneys associated with the above-captioned case.

/s/ Jennifer C. Bretan

Jennifer C. Bretan  
Fenwick & West LLP

FENWICK & WEST LLP